

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**CRIMINAL NO. 3:18cr165-CWR-FKB**

**JESSIE BULLOCK**

**MR. BULLOCK’S RESPONSE TO COURT’S ORDER INQUIRING ABOUT THE USE  
OF HISTORIANS IN OTHER *BRUEN*<sup>1</sup> CASES**

The defense submits the following response to the Court’s order inquiring about the use of historians in other *Bruen* cases:

On February 8, 2023, the Fifth Circuit heard argument in the case of *United States v. Quiroz*, Appeal No. 22-50834. That appeal arises from a district court decision that 18 U.S.C. § 922(n) is unconstitutional. *See United States v. Quiroz*, Case No. PE:22-cr-104-DC, 2022 WL 4352482 (W.D. Tex. Sept. 19, 2022). The panel hearing the case raised the same questions this Court has raised in the instant case. The *Quiroz* panel questioned the Government about the necessity of developing the historical record and the risk of receiving “cherry-picked” historical analogues. *See Quiroz* Oral Argument, [https://www.ca5.uscourts.gov/OralArgRecordings/22/22-50834\\_2-8-2023.mp3](https://www.ca5.uscourts.gov/OralArgRecordings/22/22-50834_2-8-2023.mp3) (last visited on April 28, 2023) (beginning around 6:07 and continuing through approximately 12:20).

Following oral argument, the Fifth Circuit requested supplemental briefing from the United States Solicitor General that would augment the record on historical analogues for § 922(n) and address whether the application of historical analogues constitutes a question of law, a question of

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<sup>1</sup> *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022).

fact, or a mixed question of law and fact. *See United States v. Quiroz*, Appeal No. 22-50834 at ECF No. 69. That supplemental briefing is still in progress, with the defendant's response due May 1, 2023. *See Quiroz*, Appeal No. 22-50834 at ECF No. 86.

Although *Quiroz* is not a § 922(g)(1) case, the defense brings the case to the Court's attention because it is clear from the oral argument recording that the Fifth Circuit is wrestling with the same concerns.

Respectfully submitted this the 1st day of May, 2023.

JESSIE BULLOCK, DEFENDANT

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**CERTIFICATE OF SERVICE**

I, Michael L. Scott, do hereby certify that on the 1st day of May, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all parties of record.

/s/Michael L. Scott  
Michael L. Scott  
*Senior Litigator*